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Assistance in mine action

General and complete disarmament: implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

Environment and sustainable development

Security Council
Fifty-fifth year

Letter dated 15 September 2000 from the Permanent Representative of Panama to the United Nations addressed to the Secretary-General

I have the honour to transmit to you the text of the note dated 15 September 2000 from the Minister for Foreign Affairs of the Republic of Panama, Mr. José Miguel Alemán, addressed to you concerning the contamination of several thousands hectares of Panamanian territory with materials, explosives and toxic waste left behind by the armed forces of the United States of America.

On behalf of my Government, I should like to request you to have the text of this letter and its annex distributed as a document of the General Assembly, under agenda items 47, 73 (g), 80 and 95, and of the Security Council.

(*Signed*) Ramon A. **Morales Quijano**
Ambassador
Permanent Representative

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Annex to the letter dated 15 September 2000 from the Permanent Representative of Panama to the United Nations addressed to the Secretary-General

I should like to notify you through this note that there is a dispute between the Republic of Panama and the United States of America which, owing to its nature, should be brought to the attention of the United Nations.

It is necessary to inform you, Sir, that Panama, in accordance with article XIV of the Panama Canal Treaties of 1977 (hereinafter referred to as "the Treaties"), has made enormous efforts through the diplomatic channel to require the United States to carry out its obligation to clean up large expanses of Panamanian land clearly identified as contaminated with materials, explosive devices and toxic waste, the result of the tactical military exercises that it conducted in our country. The situation about which we are formally notifying you today was reported by the President of the Republic of Panama, Ms. Mireya Moscoso, to the General Assembly at its fifty-fourth session in September 1999.

We Panamanians firmly believe in the primacy of relations based on cooperation over those marked by conflict; this is a deeply rooted cultural tradition among us. It is this spirit which motivates Panama in the search for a satisfactory settlement of the dispute that concerns us.

In this connection, the agreement reached between the Republic of Panama and the United States to transfer the Canal and adjacent areas is the best proof of the feasibility of settling, in a peaceful manner, disagreements between a super-Power and a small country.

Background information: between world trade and military practices

Beginning with the First World War, the United States of America, without the authorization of Panamanian Governments in most cases or on the basis of some specific limited concessions in others, had used 34,000 hectares as so-called military sites for the defence of the Panama Canal. Of these areas, the United States utilized approximately 22,000 hectares for military training, of which 15,000 were set aside as firing ranges and, of them, approximately 7,000 served as impact areas, which were left contaminated by materials and undetonated explosives and other components which have an extremely harmful impact on both the environment as well as the security and health of the Panamanian population.

The sites identified as having the largest concentration of contaminants and being the closest to densely populated centres are Emperador, Piña and Balboa Oeste, which comprise a total of 3,175 hectares. According to studies which were carried out by the United States Department of Defense and are in our possession, there are at least 105,000 undetonated devices in those three impact sites alone.

The actions by the United States referred to here had nothing in common with the commercial purposes of the Panama Canal and its responsibility to defend the waterway against possible aggression or attacks. In spite of our powerlessness when faced with unilateral decisions by the United States, we Panamanians have never failed to accord due importance to our worldwide obligations based principally on

the existence of the Canal. Our position, which has benefited all nations of the world without interruption is being maintained with regard to the future through constitutional and legal mechanisms which guarantee the neutrality of the Panama Canal and equal treatment for all its users.

Transfer of the Panama Canal

The transfer of the Panama Canal and the closure of United States military bases on our soil have brought spiritual peace and a profound sense of national unity to the country. These feelings are the basis and guarantee of Panama's continued commitment to the international community.

Now, eight months after the historic event that completed our independence and confirmed our status as a fully fledged nation, we Panamanians wish to develop all our resources as a legitimate act of sovereignty. It is our intention, in taking full control of our own destiny, that Panama will continue to be known as a country that seeks to solve conflicts peacefully and to be respected as a nation. That is what has prompted us to come to you.

For many years, and prior to the setting of a date for the transfer of the Canal to the Republic of Panama, the United States of America continued to unilaterally state how it interpreted its obligations under the Treaties with respect to the decontamination of the areas that it used for its military exercises. These unilateral interpretations fly in the face of logic, morality, the law, humanity and what can be technically demonstrated.

Sir,

In your seminal report entitled "We the peoples: the role of the United Nations in the twenty-first century", you propose to Member States, with regard to issues relating to trade, a course of action that is consonant with environmental and human rights standards. You also call upon States to fulfil their obligations with respect to universal values and standards arising from numerous conferences and extensive negotiations that have become historic resolutions and conventions under the auspices of the United Nations. We consider that this appeal to Member States is applicable not only to trade issues, but also to all other aspects of relations among States. Your wise words reflect the ethical principles upon which the United Nations was founded.

In another section of your report, you sound a warning, among other things, about the risk that environmental deterioration could result in an unexpected and potentially dangerous increase in social and political tension. We are particularly pleased about this clear understanding of an issue whose multifaceted nature is already having a serious impact not only on many emerging nations, but also on the highly developed ones as well.

It is in this spirit that we are turning to you, even as the protracted dispute continues between Panama and the United States of America over the inadequate clean-up of war materials, undetonated ordnance and toxic wastes in the areas of our territory that were formerly used by the United States for military exercises.

Nature of the problem

As we have already noted, when these Treaties were signed, it was agreed that the United States of America had a broad responsibility without any time limit for the decontamination of the areas used by it for target and bombing practice. However, that country is now reluctant to meet its obligations, claiming that it cannot improve on the clean-up operations already performed, although such clean-up was very superficial and covers only 5 per cent of the 20,328 hectares identified as being contaminated with unused artillery pieces, unexploded mortar shells, grenades and bombs, as well as with underground residues of polychlorinated biphenyls (PCBs) and toxic and chemical wastes. The United States of America has thus far shied away from undertaking a comparison of the studies that we have proposed, because it knows that the Republic of Panama is right.

The responsibility of the United States of America, including the removal of any threat to the lives, health and security of human beings in any area of defence, military coordination or portion thereof upon the expiry of authorization for the use of such areas by United States forces and prior to the transfer of any facility, is stipulated in documents. However, the reality is that the United States has transferred all its facilities to Panama, leaving the soil, environment and surface and underground water generally polluted, and has repeatedly refused to accept full legal and moral responsibility for the complete removal of these threats to the security, health, lives and environment of Panamanians.

Our country, through its support both for numerous resolutions adopted by the General Assembly as well as for your enlightened stewardship of the Secretariat, has also advocated a course of action that is consonant with environmental and human rights standards. Thus, since the 1970s, we have supported the General Assembly in its reaffirmation of the need for all States to enact environmental laws in application of treaties and conventions. For that reason, and because we feel that we have the moral authority to do so, our Government wishes to bring to your attention the failure by a State which is, moreover, a permanent member of the Security Council, to fulfil such obligations.

Background

The army, navy and air force of the United States of America are responsible for the same kinds of contamination within their own territory as in that of other countries; and they have had to clean it up at their own expense. For example, we may note the cases of Germany and Japan, where there was compensation; Canada, which has an ongoing programme costing US$ 100 million to be reimbursed within 10 years; Kaho-Olawe Island Reserve in Hawaii, with an ongoing decontamination project costing US$ 400 million; Adak, Alaska; Fort Ord, California; Buckley Bombing Range, Colorado; Fort Irwin, California; Camp Croft Army Training Facility, South Carolina; Massachusetts Military Reservation, and various other places.

The decontamination operations within the territory of the United States of America have been mandated by the Environmental Protection Agency. Their legal justification is that military bases have an impact on air quality because of the dust produced by construction and demolition; aircraft and vehicle fumes; the handling of

hazardous materials and waste; noise; the contamination of surface and underground water sources; damage to biological resources; and soil contamination and erosion.

On 10 April 1998, in statements which confirm the foregoing, Sherri W. Goodman, Deputy Under Secretary of Defense (United States Environmental Security) disclosed that the Environmental Protection Agency had shut down the Massachusetts Military Reservation (artillery range) because unexploded shells were contaminating underground water.

Severity of contamination in Panama

The areas of the national territory of Panama which have been contaminated by the United States army with pesticides, unexploded ammunition, fragments of exploded ammunition and underground deposits of toxic and chemical waste include completely arid stretches in which there is no longer any vegetation growing. There are also significant quantities of these materials which have been washed towards the rivers by the rains, and we have detected the presence of lead in surface and underground waters, and traces of other heavy metals in plants eaten by humans.

All these are areas which could potentially be developed in one way or another, but have now been lost because of military explosives and waste. The Republic of Panama cannot accept the irresponsibility shown in this situation by the United States of America, particularly since, we repeat, we have in our possession sufficient technical evaluations which confirm that the clean-up of these areas is indeed viable, that biological diversity would not be affected, and that no damage would be caused to forests.

Sir,

The Government of Panama transmits through you a formal request, contained herein, that the United Nations should thoroughly investigate this serious breach on the part of the United States of America of its obligations. We draw your attention to the facts described above in order to make a formal request for the circulation of this letter, for the relevant purposes, as a document of the United Nations General Assembly under items 47, 73 (g), 80 and 95 of the agenda of the fifty-fifth session of the General Assembly. We also request that the letter should be brought to the attention of the Security Council.

(*Signed*) José Miguel **Alemán**
Minister for Foreign Affairs